

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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YORKSHIRE TOWERS COMPANY, L.P. and
YORKSHIRE TOWERS TENANTS ASSOCIATION,

Case No. 10-cv-8973 (TPG)

Plaintiffs,

-against-

THE FEDERAL TRANSIT ADMINISTRATION,
THE METROPOLITAN TRANSPORTATION
AUTHORITY and THE METROPOLITAN
TRANSPORTATION AUTHORITY CAPITAL
CONSTRUCTION COMPANY,

Defendants.

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YORKSHIRE TOWERS COMPANY, L.P. and
YORKSHIRE TOWERS TENANTS ASSOCIATION,

Plaintiffs,

-against-

UNITED STATES DEPARTMENT OF
TRANSPORTATION, RAY LAHOOD, in his capacity as
Secretary of the United States Department of
Transportation, THE FEDERAL TRANSIT
ADMINISTRATION, PETER M. ROGOFF, in his capacity
as administrator of the Federal Transit Administration, THE
METROPOLITAN TRANSPORTATION AUTHORITY,
JAY H. WALDER, in his capacity as Chairman of the
Metropolitan Transportation Authority, THE NEW YORK
CITY TRANSIT AUTHORITY, THOMAS F.
PRENDERGAST, JR., in his capacity as President of the
New York City Transit Authority and THE
METROPOLITAN TRANSPORTATION AUTHORITY
CAPITAL CONSTRUCTION COMPANY, MICHAEL
HORODNICEANU, in his capacity as President of the
Metropolitan Transportation Authority Capital Construction
Company,

Defendants.

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**SECOND STIPULATION
BETWEEN PLAINTIFFS AND
DEFENDANT STATE PUBLIC
AUTHORITIES AND
SUBSIDIARY AND
EXECUTIVES
(COLLECTIVELY THE “MTA”)
AND FEDERAL DEFENDANTS
EXTENDING TIME TO
ANSWER IN RELATED CASE
AND PLAINTIFFS’ TIME TO
OPPOSE MOTION TO DISMISS
BY MTA IN FIRST CASE
PENDING SETTLEMENT
DISCUSSIONS**

Case No. 11-cv-1058 (TPG)

RELATED CASE

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| USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: _____ DATE FILED: <u>5/26/11</u> |
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RECITALS:

A. Plaintiffs commenced the first above-captioned case against the Federal Transit Administration (the “FTA”) and the Metropolitan Transportation Authority (the “MTA”) and the Metropolitan Transportation Authority Capital Construction Company (the “MTACCC”) on November 30, 2010 (the “FOI Case”). The FOI Case sets forth two counts under the Freedom of Information Act and the New York Freedom of Information Law, in the alternative, to compel the release of specified records and materials. The same Plaintiffs subsequently commenced the second above-captioned environmental lawsuit on February 16, 2011 (the “Environmental Case”) seeking injunctive and related relief against the United States Department of Transportation (“USDOT”), Ray LaHood, in his capacity as Secretary of the USDOT, the FTA, and Peter M. Rogoff, in his capacity as administrator of the FTA (the “FTA Defendants”), and the MTA, Jay H. Walder, in his capacity as Chairman of the MTA, the New York City Transit Authority, Thomas F. Prendergast, Jr., in his capacity as President of the New York City Transit Authority, the MTACCC, and Michael Horodniceanu, in his capacity as President of the MTACCC (collectively, the “MTA Defendants”). The Environmental Case was accepted by the Court (Griesa, J.) as related on February 28, 2011.

B. The attorneys for the Plaintiffs and each of the Defendants in the FOI Case and the Environmental Case (collectively, the “Parties”) appeared for the first pretrial conference (the “PTC”) in the FOI Case on February 25, 2011. At the conclusion of the PTC, the Court directed the Parties to make good faith efforts to settle both cases. In this connection, the Plaintiff and the MTA Defendants entered into a stipulation regarding the

release of confidential information required to proceed with settlement discussions in accordance with Rule 26(c) of the Federal Rules of Civil Procedure (the “Confidentiality Stipulation”).

C. The Confidentiality Stipulation was so ordered and entered by the Court on March 23, 2011 (FOI Case, ECF No. 20).

D. After the production and review of records and information in excess of 10,000 pages under the Confidentiality Stipulation, the Parties in the FOI and Environmental Cases held their first settlement conference on April 11, 2011.

E. The Parties have reviewed and analyzed settlement proposals made at the first settlement conference and are scheduling a second settlement conference and continuing settlement discussions regarding review of additional technical information and documentation. This will take the Parties past the current time extensions for opposing the pending motion to dismiss in the FOI Case, and the time to answer in the Environmental Case.

NOW, THEREFORE, IT IS HEREBY STIPULATED by and between the attorneys for Plaintiffs, the MTA Defendants and the FTA Defendants as follows:

1. Each of the above Recitals are incorporated as if fully set forth here.
2. The MTA Defendants and the FTA Defendants’ time to answer, or to move against the Complaint in the Environmental Case is extended from May 25, 2011 to July 27, 2011, pending the outcome of settlement negotiations by the Parties.

3. The time for Plaintiffs to serve their opposing papers to the MTA's and MTACCC's motion to dismiss the FOI Action (First Case, ECF Nos. 17 and 18), is extended from May 25, 2011 to July 27, 2011, pending the outcome of settlement negotiations by the Parties. Defendants MTA's and MTACC's time to serve reply papers, if any, is extended to August 4, 2011.

4. The Parties may agree to further extensions of time set forth in ¶¶ 2 and 3 above as may be helpful or necessary to pursue continuing settlement negotiations, or to conclude settlement terms and conditions.

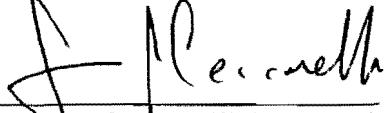
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5. This Stipulation may be signed, emailed or faxed in counterpart, and if so signed, emailed or faxed, shall be considered the equivalent of one fully signed agreement for all purposes.

Dated: May 20, 2011
New York, New York

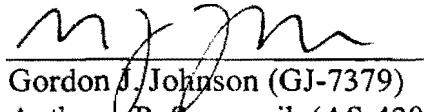
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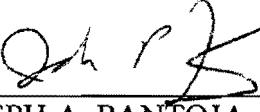
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Horodniceanu, in his capacity as
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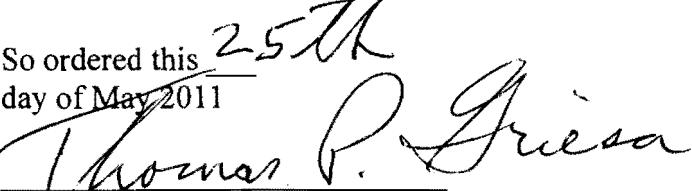
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capacity as Secretary of the Department
of Transportation, the Federal Transit
Administration, and Peter M. Rogoff, in
his capacity as administrator of the
Federal Transit Administration*

So ordered this 25th
day of May 2011



Hon. Thomas P. Griesa
United States District Judge